In the same volume is the case of Saxton *v.* Webber, decided by the Supreme Court of Wisconsin (p. 509; 83 Wis. 617). This case gives occassion to a useful annotation upon the effect upon prior takers of the failure of a gift because it violates the rule against perpetuities. A large number of authorities are classified and arranged under a series of propositions representing generalizations from the decisions. It must be observed, however, that an annotation upon such a subject, no matter how carefully it is prepared, furnishes a proof of the impossibility of carrying out the plan of the L. R. A. in its completeness. It is said that "the annotations are intended to furnish a reference to all former decisions on subjects discussed in the cases reported," but the reader of this annotation (if he happens to be especially familiar with the subject-matter of it) will notice that many important cases are not even cited. Thus, there is a failure to cite Odell *v.* Odell (10 Allen, 1), and Martin *v.* Margham (14 Sim., 230), in support of the proposition that "That annexation to a valid devise of an invalid direction as to accumulations of income will not of itself defeat the gift."

It is impossible to comment at length upon all the decisions and annotations contained in these two volumes which are worthy of remark, and the reviewer is constrained to dismiss them with the general comment that the books represent useful additions to the working library of the practitioner.

G. W. P.

THE RELATION OF ETHICS TO JURISPRUDENCE.

The current number of the "INTERNATIONAL JOURNAL OF ETHICS" cannot fail to attract the attention of members of the legal profession. Among the articles of interest are those on "The Social Ministry of Wealth," by Prof. HENRY C. ADAMS, of the University of Michigan; "State Creation of Old Age Distress in England," by Dr. M. J. FARRELLY, of London; and book reviews of WATT'S "An Outline of Legal Philosophy," by SIDNEY BALL, of Oxford University, and of the Report of the New York State Reformatory, by ROLAND P. FALKNER, of the University of Pennsylvania.

Rev. JOHN GRIER HIBBEN, of Princeton College, contributes a scholarly paper on "The Relation of Ethics to Jurisprudence," which must command notice from all jurists and political philosophers. We think it was Sir Henry Sumner Maine, who somewhere said that "No man can hope to have clear ideas either of law or of jurisprudence who has not mastered the elementary analysis of legal conceptions effected by Bentham and Austin." Recognizing the importance of strict definition, and with a laudable desire to give every possible advantage to those whom he regards as his opponents in the argument, the author takes the definitions of jurisprudence and of ethics as framed by Holland in the spirit of the analytical jurists, and then proceeds to refute the propositions laid down by many learned writers as to the complete separation of these two sciences. Among the authors cited as insisting upon the complete separateness of the two spheres of ethics and jurisprudence is Matthew Arnold, in these words: "If it is sound English doctrine that all rights are created by law, and are based on expediency, and are alterable as the public advantage may require, certainly that orthodox doctrine is mine." Now Prof. Hibben himself insists that "the necessity of strict definition should be recognized by the moral philosopher," and we would respectfully submit that we should know in what sense Arnold uses the word "rights" before concluding that these words of his necessarily place him among those who insist upon the separation of ethics and jurisprudence. We confess, however, that the quotation awakened a curiosity as to the book of Arnold's in which it might be found, and, as the foot-note cited, not Arnold but William Samuel Lilly, we referred to that author's recent work "On Right and Wrong," and found that, although quoting Arnold in the exact words of Prof. Hibben's article, Lilly also fails to state where those words are to be found in Arnold's writings. This is most unsatisfying to any one wishing the best evidence on this point, and our dissatisfaction is increased when, continuing to read Lilly, we find these words: "The apostle of culture is here the mouthpiece of the vulgar belief, that material power, the force of numbers, furnishes the last reason

of things, and the sole organ of justice; a belief which finds practical expression in the political dogma that any 'damnéd error' becomes right, if a numerical majority of the male adult inhabitants in any country can be induced, by rhetoric and rigmarole, to bless it and approve it with their votes." Of all English philosophers, Matthew Arnold would be one of the last whom we should expect to be the proponent of any such doctrine as that. His lecture on "Numbers," delivered in this country only a few years ago—to cite no other work—would seem sufficient to justify a contrary conclusion. We do not say that Arnold did not hold that position. It may be that the words quoted in the article under review are to be found in some work of his with which we ought to be familiar, but we shall not be fully satisfied that he did until we read the words in his own writings and find their meaning in connection with their context. If, however, Prof. Hibben will pardon us for quoting (without giving the reference), words which we *think* are those of Maine, we shall be glad to pardon him for a like slip in reference to Arnold.

Having defined the spheres of the two sciences of jurisprudence and ethics, our author proceeds to consider the derivation of law, and criticises the analytical jurists because, after stating that all law proceeds from sovereignity, they fail to carry their investigation of origins beyond that point. That the genesis of law discloses natural limitations of sovereign power, ethical in their character, is maintained by Prof. Hibben, who, after indicating briefly the indirect and impalpable influence of ethical sentiment in creating, annulling and reforming law, considers what contribution to the solution of the problem has been made by "the vanishing point of jurisprudence"—international law. In this connection he quotes approvingly the position assumed before the Behring Sea Commission by Mr. James C. Carter that, where there are no treaty rights and no precedents, disputes between nations are often arbitrated by appeal to the principles of national equity. In opposition to this contention of the United States counsel was the proposition of England's counsel, Sir Charles Russell, who insisted that international law is for all practical

purposes a code, and ethics and equity have nothing to do with it. While we doubt whether our author can find much support for his view from the decision in the Behring Sea case, we are in thorough sympathy with him in his conclusion as to the influence of ethics on jurisprudence, and are glad he can say: "The time has come in the history of mankind when it is generally recognized that a State possesses certain moral responsibilities. There is a civic as well as an individual conscience" G. G. M.

ELEMENTS OF ECCLESIASTICAL LAW. By the REV. S. B. SMITH, D.D. Vol. I. Ninth Edition. New York: Benziger Bros., 1893.

With the presence of the Papal Ablegate among us, a popular interest has been aroused through discussions in the public prints, as to the nature and extent of the organization of the Roman Church. The perfect symmetry of this organization has been but little understood by us in America, simply because the American people at such a distance from Rome and under such different social conditions from those present when the Church was organized, have cared nothing or but very little, for its powers or rule. At this time, therefore, it is very fortunate to receive a new edition of Dr. Smith's work, stamped with the approval of many distinguished prelates of the United States, living and dead.

Dr. Smith divides his first volume, which treats entirely of Ecclesiastical Persons, into four parts: 1. The principles of the canon law with a discussion of the value and weight to be attached to the various sources of that law. 2. Treats of persons pertaining to the hierarchy; of ecclesiastical jurisdiction; how it is acquired, how exercised, and those who are subject to it. Chapters six and seven present to the reader an extremely interesting and accurate description of the mode of electing the Pope; and the succeeding pages of this part are devoted to a discussion of the rule regulating the appointment, the removal and qualifications for the lesser dignitaries of the church from cardinal to parish priest. 3. Treats of particular